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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,048	09/13/2002	Olle Straat	03485.0003NP	2585

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HOWREY SIMON ARNOLD & WHITE LLP
1299 PENNSYLVANIA AVE., NW
BOX 34
WASHINGTON, DC 20004

EXAMINER

TRAN, LOUIS B

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,048

Applicant(s)

STRAAT ET AL.

Examiner

Louis B Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities: On page 6 of the specification, paragraph 22, line 9 describes item 14 to be the bending die.

However, item 15 has been described as a bending die. Appropriate correction is required. Applicant is urged to thoroughly review the application for any possible further errors.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 provides no structure for forming of the staple (e.g. bending legs) as recited in the preamble of the claim. Furthermore, a "staple forming arrangement" does not structurally define a staple bending device and, therefore, the boundaries and the scope of the claim is unclear.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 7-19 rejected under 35 U.S.C. 102(b) as being anticipated by Hurkmans et al. (3,524,575).

With respect to claims 1, 14, and 16, Hurkmans et al. shows a staple forming device for a stapler of the type in which staples are driven by a driver blade into a workpiece comprising a main body portion 85, a first leg-bending portion 94 and a second leg-bending portion 95 with an intermediate crown-forming portion 96 having a stamping surface; a drive means for driving said stamping surface from a starting position of a staple-forming motion in which the staple forming device is brought against the bending die 118.

Hurkamns also shows the first and second leg-bending parts bending the staple blank into a staple shape over the bending die, and a drive means, a driver blade 97, and said crown-forming portion being displaceably interconnected by an elastic element or biasing means or take up device 86 (as in claims 1 and 16). Biasing means 86 applying outwardly directed forces between a staple crown forming portion and main body portion 85 (as in claim 14).

With respect to claim 2, Hurkmans et al. shows a staple-crown forming portion 96 securing in at least on guide arrangement to said main body portion 85 and configured for reciprocation.

With respect to claim 3 and 4, Hurkmans et al. shows a gap space provided between said main body portion 85 and said staple crown-forming portion 96, gap space

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provided between a main body portion 85 and said staple crown-forming portion 96, gap configured to accommodate reciprocating motion between crown forming portion and main body portion (as in claim 3). Hurkmans et al. also shows an elastic element 87 interconnected across a gap form biasing a crown-forming portion away from a main body portion (as in claim 4).

With respect to claims 5, 7, and 8, Hurkmans et al. shows a driver blade 97 interconnected with said main body portion of said staple forming arrangement and staple crown-forming portion being adjacently positioned or abuttingly engaged to a driver blade and arranged for reciprocation relative to each other.

With respect to claim 9, Hurkmans et al. shows a driver blade 97 interconnected with a main body portion 85 of said staple forming arrangement, said driver blade and said main body portion being of sheet construction; and said driver blade being located substantially on a common plane with said main body portion.

With respect to claims 10 and 11, Hurkmans et al. shows at least one or two leg-bending portion positioned along side said staple crown-forming portion on either of two lateral sides.

With respect to claim 12, Hurkmans et al. teaches an elastic element 86 being at least partially hairpin shaped as in Figure 4.

With respect to claim 13 and 17, Hurkmans et al. teaches an elastic element being a leaf spring as in column 5, line 53.

With respect to claim 15 Hurkmans et al. teaches a biasing means 86 having sufficiently low biasing strength for permitting said crown-forming portion to retract

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toward said main body portion after a staple blank has been bent into a staple shape and as said main body portion continues to travel toward the bending die described in column 5, lines 50-75.

With respect to claim 18, Hurkmans et al. teaches a crown forming portion 96 being secured to said main body portion 85 by a first and second guide arrangement (seen in Figure 6), each of which are configured for facilitating reciprocation of said crown-forming portion relative to said main body portion.

With respect to claim 19, Hurkmans et al. teaches an integrated driver blade as seen in Figure 9.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurkmans et al. (3,524,575).

Hurkmans et al. discloses the claimed invention except for the driver blade being integrally formed with the main body portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide integration of parts, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

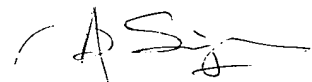
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611.

The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt


JOHN SIPOS
PRIMARY EXAMINER